

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: February 19, 2003

Division: County Attorney

AGENDA ITEM WORDING:

Public hearing of an ordinance authorizing the issuance of Monroe County, Florida infrastructure sales surtax revenue bonds in an aggregate principal amount not to exceed \$25,000,000.

ITEM BACKGROUND:

PREVIOUS RELEVANT BOCC ACTION:

Approval to advertise at January 15, 2003 BOCC meeting.

STAFF RECOMMENDATIONS:

Approval.


TOTAL COST:

BUDGETED: Yes ☐ No ☐

COST TO COUNTY:

APPROVED BY: County Attorney ☒ OMB/Purchasing ☐ Risk Management ☐

DIVISION DIRECTOR APPROVAL:


RICHARD COLLINS

DOCUMENTATION:

Included ☒

To Follow ☐

Not Required ☐

AGENDA ITEM #

72

ORDINANCE NO. ____-2003

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA AUTHORIZING THE ISSUANCE OF ITS MONROE COUNTY, FLORIDA INFRASTRUCTURE SALES SURTAX REVENUE BONDS, SERIES 2003, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$25,000,000 SECURED BY AND PAYABLE FROM THE PLEDGED FUNDS DESCRIBED HEREIN FOR THE PRINCIPAL PURPOSES OF FINANCING THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF VARIOUS CAPITAL IMPROVEMENTS WITHIN THE COUNTY; PROVIDING FOR VARIOUS RIGHTS AND REMEDIES OF THE BONDHOLDERS; PROVIDING THAT THE BONDS AUTHORIZED HEREUNDER WILL NOT CREATE A GENERAL DEBT OR OBLIGATION OF THE COUNTY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA:

SECTION 1. DEFINITIONS. When used in this Ordinance, the following terms shall have the following meanings, unless the context clearly otherwise requires:

"Act" shall mean Chapter 125, Florida Statutes, Chapter 212, Florida Statutes, this Ordinance, the Infrastructure Sales Surtax Ordinance, the Monroe County Code and other applicable provisions of law.

"Board" shall mean the Board of County Commissioners for the County.

"Bond Resolution" shall mean the resolution of the County providing for the security for the Bonds, the flow of funds, the rights and remedies of the Bondholders and various other terms and details relating to the Bonds, as the same may be amended or supplemented from time to time.

"Bonds" shall mean the Monroe County, Florida Infrastructure Sales Surtax Revenue Bonds, Series 2003 authorized to be issued by the County pursuant to this Ordinance and the Bond Resolution.

"Cost," when used in connection with the Project and permitted by the Act, shall mean (1) the County's cost of physical construction; (2) costs of acquisition by or for the County of the Project or any portion thereof; (3) costs of land and interests therein and the cost of the County incidental to such acquisition (including, without limitation, title insurance and related costs and costs associated with the examination, survey and any remediation required with respect to such land); (4) the cost of any indemnity and surety bonds and premiums for insurance during construction; (5) all interest due to be paid on the Bonds and other obligations relating to the Project during the period of construction of the Project and for a reasonable period subsequent to completion of construction as the Board shall determine; (6) engineering, architectural, legal, financial advisory and other consultant fees and expenses; (7) costs and expenses of the financing incurred for the Project, including fees and expenses of any paying agent, registrar, credit enhancers or depository; (8) payments, when due (whether at the maturity of principal or the due date of interest or upon redemption) on any interim or temporary indebtedness incurred for the Project; (9) costs of machinery, equipment, technology, supplies, spare parts, furniture and any other items required by the County for the commencement of operation of the Project; and (10) any other costs properly attributable to such construction or acquisition or to the issuance of Bonds which finance the Project, as determined by generally accepted accounting principles applicable to the Project, and shall include reimbursement to the County for any such items of Cost paid by the County prior to issuance of the Bonds or other obligations issued to finance the Project. Additional items of Cost may be provided pursuant to the Bond Resolution.

"County" shall mean Monroe County, Florida, a political subdivision of the State of Florida.

"Infrastructure Sales Surtax Ordinance" shall mean, collectively, Ordinance No. 013-1989 adopted by the Board on May 23, 1989, and Ordinance No. 01-2000 adopted by the Board on January 19, 2000, authorizing the levy of a one cent local government infrastructure surtax, as each Ordinance may be amended and supplemented.

"Infrastructure Sales Surtax Revenues" shall mean the proceeds received by the County from the levy of the one cent local government infrastructure sales surtax pursuant to the Act.

"Pledged Funds" shall mean (1) the Infrastructure Sales Surtax Revenues, and (2) until applied in accordance with the terms of the Bond Resolution, all moneys in such funds and accounts, including investments thereof, as the County shall determine to pledge pursuant to the Bond Resolution.

"Prior Bonds" shall mean the County's outstanding Sales Tax Refunding Revenue Bonds, Series 1998.

"Project" shall mean those capital improvements to be financed with proceeds of the Bonds, as more particularly described in the plans and specifications on file from time to time with the County. A general description of the Project is set forth on Exhibit A attached hereto. The Project may be supplemented or modified pursuant to the Bond Resolution or any supplemental resolution thereto.

The words "herein," "hereunder," "hereby," "hereto," "hereof," and any similar terms shall refer to this Ordinance.

Words importing the singular number include the plural number, and vice versa.

SECTION 2. FINDINGS. The Board hereby finds and determines as follows:

- (a) The County has various capital improvement needs in the form of the Project.
- (b) The Board deems it in the best interests of the County to issue the Bonds to finance the Costs of the Project which will benefit the health, safety and welfare of the citizens of the County.
- (c) The Bonds shall be payable from the Pledged Funds and shall not constitute a general debt or obligation of the County. Such Bonds shall never be payable from any ad valorem tax levied within the County.

SECTION 3. ISSUANCE OF REVENUE BONDS. (a) The Board hereby authorizes the issuance of a series of bonds to be designated "Monroe County, Florida Infrastructure Sales Surtax Revenue Bonds, Series 2003" in the aggregate principal amount not to exceed \$25,000,000 for the following purposes: (1) paying all or a part of the Cost of the Project, (2) funding a debt service reserve account if determined to be required or desirable pursuant to the Bond Resolution, (3) capitalizing interest on the Bonds if determined to be required or desirable pursuant to the Bond Resolution, and (4) paying costs of issuance relating to the Bonds. The Bonds shall be issued pursuant to the Act and the Bond Resolution. The principal of and interest on the Bonds shall be payable from the

Pledged Funds, all as determined pursuant to the Bond Resolution. The County may grant a lien upon and pledge the Pledged Funds in favor of the holders of the Bonds in the manner and to the extent provided in the Bond Resolution; provided, however, that the lien on and pledge of the Infrastructure Sales Surtax Revenues shall be junior and subordinate in all respects to the lien and pledge thereof granted with respect to the Prior Bonds. Such Pledged Funds shall immediately be subject to such lien without any physical delivery thereof and such lien shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the County.

(b) The Bonds shall be dated, shall bear interest at such rate or rates, shall mature at such time or times not exceeding 40 years from their date or dates, may be made redeemable before maturity at such price or prices and under such terms and conditions, all as shall be determined by the Board pursuant to the Bond Resolution. The Board in the Bond Resolution shall determine the form of the Bonds, the manner of executing such Bonds, and shall fix the denomination or denominations of such Bonds and the place or places of payment of the principal and interest, which may be at any bank or trust company within or without the State of Florida. In case any officer whose signature or a facsimile of whose signature shall appear on any Bonds shall cease to be such officer before the delivery of such Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he or she had remained in office until such delivery. The Board may sell such Bonds in such manner and for such price as it may determine to be in the best interests of the County in accordance with the terms of the Bond Resolution. In addition to the Pledged Funds, the Bonds may be secured by such credit enhancement as the Board determines to be appropriate pursuant to the Bond Resolution. The Bonds may be issued as capital appreciation bonds, current interest bonds, term bonds, serial bonds, variable rate bonds or any combination thereof, all as shall be determined pursuant to the Bond Resolution.

(c) Prior to the preparation of definitive Bonds, the Board may, under like restrictions, issue interim receipts, interim certificates or temporary Bonds exchangeable for definitive Bonds when such Bonds have been executed and are available for delivery. The Board may also provide for the replacement of any Bonds which shall become mutilated, or be destroyed or lost. Bonds may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this Ordinance.

(d) The proceeds of the Bonds shall be used for the purposes, and shall be disbursed in such manner and under such restrictions, if any, as the Board may provide pursuant to the Bond Resolution and which are allowable pursuant to the Act.

(e) The Bond Resolution may also contain such limitations upon the issuance of additional indebtedness as the Board may deem proper, and such additional indebtedness shall be issued under such restrictions and limitations as may be prescribed by such Bond Resolution. The Bond Resolution may contain such provisions and terms relating to the Bonds and the Pledged Funds as shall not be inconsistent herewith.

(f) The County hereby authorizes and approves the acquisition, construction and equipping of the Project.

SECTION 4. TAXING POWER NOT PLEDGED. (a) The Bonds issued under the provisions of this Ordinance shall not be deemed to constitute a general obligation debt of the County or a pledge of the faith and credit of the County, but the Bonds shall be secured by and payable solely from the Pledged Funds and any moneys received from credit enhancers of the Bonds, in accordance with the terms of the Bond Resolution; provided, however, that the lien on and pledge of the Infrastructure Sales Surtax Revenues shall be junior and subordinate in all respects to the lien and pledge thereof granted with respect to the Prior Bonds. The Bonds shall contain a statement on their face to the effect that the County is not obligated to pay the same or the interest thereon except from the sources described above, and that the full faith and credit of the County are not pledged to the payment of the principal or interest of such Bonds.

(b) The issuance of Bonds under the provisions of this Ordinance shall not directly or indirectly or contingently obligate the County to levy or to pledge any form of ad valorem taxation whatever therefor. No holder of any Bonds shall ever have the right to compel any exercise of the ad valorem taxing power on the part of the County to pay any such Bonds or the interest thereon or to enforce payment of such Bonds or the interest thereon against any property of the County, nor shall the Bonds constitute a charge, lien or encumbrance, legal or equitable, upon any property of the County, except the Pledged Funds and other legally available moneys described in the Bond Resolution, if any, all in accordance with the terms hereof and of the Bond Resolution.

SECTION 5. TRUST FUNDS. All moneys received pursuant to the authority of this Ordinance, whether as proceeds from the sale of the Bonds or the Pledged Funds, shall be deemed to be trust funds, to be held and applied solely as provided in this Ordinance and in the Bond Resolution. Such Pledged Funds may be invested by the County, or its designee, in such manner as provided in the Bond Resolution.

SECTION 6. REMEDIES OF BONDHOLDERS. Any holder of Bonds, except to the extent the rights herein given may be restricted by the Bond Resolution, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce

any and all rights under the laws of the State of Florida or granted hereunder or under such resolution, and may enforce and compel the performance of all duties required by this part, or by such resolution, to be performed by the County or the Board or by any officer thereof.

SECTION 7. ALTERNATIVE METHOD. This Ordinance shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing or which may hereafter come into existence. This Ordinance, being necessary for the welfare of the inhabitants of the County, shall be liberally construed to effect the purposes hereof.

SECTION 8. SEVERABILITY. If any section, paragraph, clause or provision of this Ordinance shall be held to be invalid for any reason, such invalidity shall not affect the validity or enforcement of any of the remaining provisions hereof. This Ordinance shall take precedence over any other ordinance or resolution of the County to the extent of any conflict or inconsistency therewith.

SECTION 9. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its enactment and filing with the State in accordance with law.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting of said Board on the ____ day of _____, 2003.

Mayor Spehar
Mayor Pro Tem Nelson
Commissioner McCoy
Commissioner Neugent
Commissioner Rice

(SEAL)

Attest: DANNY L. KOLHAGE, Clerk

BOARD OF COUNTY COMMISSIONERS OF
MONROE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Mayor/Chairperson

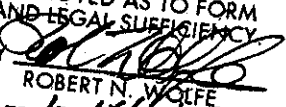
APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
BY 
ROBERT N. WOLFE
DATE 1-14-03

EXHIBIT A

GENERAL DESCRIPTION OF THE PROJECT

The Project generally includes the acquisition, constructing, equipping and/or renovation, as the case may be, of all or a portion of the following:

- Stock Island Fire Rescue Facility Storage
- Big Pine Fire/EMS Facility
- Conch Key Fire/EMS Facility
- CudJoe Key Fire/EMS Facility
- Key Largo North Fire Station
- Tavernier Fire Rescue Facility
- Ocean Reef Fire/Ambulance Replacement
- Upper Keys Government Center
- Plantation Key Courtroom
- Marathon Courtroom Renovations
- Medical Examiner Facility
- Crawl Key Fire Rescue Training Facility Additions
- Dedicated EOC